West Virginia Board of Medicine Quarterly Newsletter

In This Issue:

LICENSURE RENEWALS

In mid-May, 2001, licensure renewal applications will be mailed certified to all medical doctors whose last names begin with the letters M through Z and all podiatrists, A through Z. Renewal applications will be mailed to the address of record on file at the Board offices. The address of record is the address designated by each physician as his or her preferred mailing address. It is the responsibility of the licensee to keep this office apprised of any address change. In the event of a change of address, the licensee must notify the Board of the change, in writing. (See Change of Address form on page 5.)

For a medical/podiatric license to remain valid and in force, the fully completed renewal application and fee must be RECEIVED in the Board offices BEFORE Friday, June 29, 2001, at 4:30 p.m. The physician's medical/podiatric license will be suspended if the required continuing medical/podiatric education has not been obtained (see article on page 2).

In order to avoid automatic suspension of a medical/podiatric license, a physician must either complete the six-page renewal application to renew the license or the one-page certification included in the renewal application packet to lapse/expire the license. This information must be completed and RECEIVED in the Board offices BEFORE Friday, June 29, 2001.

If a licensee does not receive a renewal application, it is his or her responsibility to inform the Board and to request a duplicate. Illegible and incomplete applications, as well as those received without the fee, will be returned. The Board will be unable to finalize the processing of any application that is not complete. Completion of the renewal application is the responsibility of the licensee.(Note changes in questions 14 and 15.)

Renewal applications for this year have been revised to simplify the renewal process. Every application will be computer-generated to include personalized information previously reported by the physician. However, each physician will need to review this information to ensure that it remains accurate. Each physician MUST provide a telephone number. The Board anticipates that this new method of renewal will reduce the time necessary for the physician to complete the application.

PHYSICIAN ASSISTANT OF THE YEAR

Congratulations to Board member Kenneth Dean Wright, P.A.-C., who has been selected as 2001 Physician Assistant of the Year by the West Virginia Association of Physician Assistants, Inc. This is a special honor, and shows the good judgement of WVAPA!

IMPORTANT

Be sure you don't miss the informative statement on end of life pain management approved by four different boards beginning on page 6.

CONTINUING EDUCATION SATISFACTORY TO THE BOARD

Physicians:

Pursuant to 11 CSR 6 2.2, in order to acquire continuing medical education satisfactory to the Board, a physician may:

A. Take continuing medical education designated as Category I by the american medical association or the academy of family physicians, or

B. Teach medical education courses or lecture to medical students, residents, or licensed physicians, or serve as a preceptor to medical students or residents: Provided, that a physician may not count more than twenty hours in this category toward the required fifty hours of continuing medical education.

C. Sit for and pass a certification or recertification examination of one of the american board of medical specialties member boards, and receive certification or recertification from said board: Provided, that a physician may not count more than twenty five hours in this category toward the required fifty hours of continuing medical education. Certification or recertification from any board other than one of the american board of medical specialties member boards does not qualify the recipient for any credit hours of continuing medical education.

There are no other types or categories of continuing medical education satisfactory to the Board.

Podiatrists:

Pursuant to 11 CSR 6 2.4, in order to acquire continuing podiatric education satisfactory to the Board, a podiatrist may:

A. Take continuing podiatric education approved by the council on podiatric medical education, or

B. Take continuing podiatric education given under the auspices of the podiatry colleges in the United States, or

C. Take continuing medical education designated as Category I by the american medical association or the academy of family physicians.

D. Take continuing podiatric education given under the auspices of the West Virginia podiatric medical association.

E. Teach podiatric education courses or lectures in podiatry taught to podiatric students, residents, or licensed podiatrists, or serve as a preceptor to podiatric students or residents: Provided, that a podiatrist may not count more than twenty hours in this category toward the required fifty hours of podiatric education.

There are no other types or categories of continuing podiatric education satisfactory to the Board.

NOTICE TO CURRENTLY REGISTERED
DISPENSING PHYSICIANS

If you are registered as a dispensing physician with the West Virginia Board of Medicine, you will need to renew your dispensing registration for the period July 1, 2001, through June 30, 2003.

In order that there is no confusion between the dispensing registration renewal application and the renewal application for your license to practice medicine and surgery or podiatry (which will be mailed to you in mid-May, 2001) we ask that if you wish to continue to be a dispensing physician for the period July 1, 2001, through June 30, 2003, you must complete the application which will be mailed to all currently registered dispensing physicians in mid-April, 2001, and return the completed application and $30 fee to the Board no later than May 15, 2001. Please note that you must pay $30 per office location where drugs are dispensed. To determine if you need to register as a dispensing physician, please refer to the West Virginia Board of Medicine Rules 11 CSR 5.

BOARD ACTIONS
January 2001 – March 2001

ALVAREZ, DONA, M.D. – Oakland, MD (02/08/01)
WV License No. 14696
Board Finding: Conditions and limitations placed upon Dr. Alvarez' license to practice medicine in West Virginia are no longer necessary to protect the public interest.
Board Action: Dr. Alvarez' license to practice medicine in the State of West Virginia was restored in full without restrictions or conditions as of December 12, 2000, and her period of probation was terminated.

HENSHAW, RAYMOND E., II, M.D. – Parkersburg, WV (01/19/01)
WV License No. 17162
Board Finding: Relating to having been subjected to disciplinary action by the licensing authority of another state.
Board Action: By AMENDED CONSENT ORDER dated January 19, 2001, the Board ORDERED that Dr. Henshaw's weekly random urine screenings for controlled substances and alcohol be changed to a bi-weekly basis.

WEBB, DELENO H., III, M.D. – Huntington, WV (07/21/99)
WV License No. 9413
Board Finding: Exercised influence within a patient-physician relationship for the purpose of engaging a patient in sexual activity; made deceptive, untrue or fraudulent representations in the practice of medicine and surgery; engaged in dishonorable, unethical or unprofessional conduct; engaged in malpractice or failed to practice medicine. . .with that level of care, skill, and treatment which is recognized by a reasonable, prudent physician. . .engaged in the same or a similar specialty as being acceptable under similar conditions and circumstances.
Board Action: Effective July 21, 1999, Dr. Webb's license was revoked, the revocation was stayed, and his license was placed in a probationary status for a period of five (5) years, subject to terms and conditions.
Court Action: By ORDER entered December 27, 2000, the Kanawha County Circuit Court ORDERED that the July 19, 1999, Order of the Board disciplining and restricting Dr. Webb's license to practice medicine be REVERSED and all restrictions on his license be VACATED. The Board has filed an appeal of the Kanawha County Circuit Court Order with the West Virginia Supreme Court of Appeals.

LICENSES SURRENDERED

THANASOPHON, BUNSRI, M.D. – Williamson, WV
WV License No. 18212
Board Action: Medical license surrendered to the Board effective February 16, 2001.

REMINDER TO PHYSICIAN ASSISTANTS AND SUPERVISING PHYSICIANS

Pursuant to Board Rule 11 CSR 2.8.2, the supervising physician of a physician assistant is responsible for notifying the Board in writing of any termination of his or her supervisory relationship with a physician assistant within ten (10) days of the termination. Pursuant to Board Rule 11 CSR 2.12.19, the physician assistant is required to notify the Board of any change in employment within thirty (30) days. Don't Forget!

BOARD MEMBER PROFILE

S. KENNETH WOLFE, M.D.

S. Kenneth Wolfe, M.D., was appointed to the Board of Medicine by then Governor Cecil Underwood in 1998. Dr. Wolfe is a native West Virginian. He received his B.A. degree in Chemistry and did his internship at Vanderbilt University. He received his M.D. degree in 1971 and later was a resident for four years at Baylor College of Medicine in Houston, Texas, first in General Surgery, then in Otolaryngology, Head and Neck Surgery, and was Chief Administrative Resident the last two years.

He obtained his specialty certification in Otolaryngology, Head and Neck Surgery in 1976. Dr. Wolfe served as a Major in the United States Army Medical Corps for two years. He then returned to Huntington where he founded Tri-State Otolaryngology, Head and Neck Surgery and engaged in private practice for two decades, serving as Chief of Otolaryngology, Head and Neck Surgery at Cabell Huntington Hospital. He also was, and remains today, a Marshall University Clinical Faculty member and Lecturer of Anatomy and served on the Admissions Committee. Dr. Wolfe retired from private practice in 1998 and in 1999 became Staff Otolaryngologist at the Veterans Administration Medical Center in Huntington where he is a member of the Peer Review Committee.

Dr. Wolfe has served as President of the West Virginia Academy of Otolaryngology, Head and Neck Surgery for five years and has been the representative from West Virginia on the Board of Governors of the American Academy of Otolaryngology, Head and Neck Surgery for ten years. In addition, he is very active in community service and is the current President and immediate past Campaign Chairman of the United Way of River Cities. He serves on the Cabell Huntington Hospital

Foundation Board of Directors, the Executive Committee of the Marshall University Foundation Board, the Board of the Huntington Clinical Foundation, the Board of the Boys' and Girls' Clubs, and holds one of seven Special Volunteer Medical Licenses in West Virginia, to provide free ENT services at the Ebenezer Medical Outreach Clinic.

Dr. Wolfe has been married to Margaret Dodge Wolfe for twenty-eight years, and they have three children.

Joint Policy Statement on Pain Management at the End of Life

Rationale

The West Virginia Boards of Examiners for Registered Professional Nurses, Medicine, Osteopathy, and Pharmacy (hereinafter the Boards) recognize that:

- inadequate treatment of pain for patients at end-of-life is a serious health problem affecting thousands of patients every year;
- fear about dying in pain is the number one concern of West Virginians and all Americans facing the end of life;[1]
- principles of quality healthcare practice dictate that the people of the State of West Virginia have access to appropriate and effective pain relief; and
- the appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain at the end of life as well as reduce the morbidity associated with untreated or undertreated pain.

Insufficient pain control may result from health care professionals' lack of knowledge about pain management or an inadequate understanding of addiction. Fears of investigation or sanction by federal, state, and local regulatory agencies may also result in inadequate treatment of pain. ***Therefore, this statement has been developed to clarify the Boards' position on adequate pain control and to address misperceptions health care professionals may have, specifically as related to the use of controlled substances for patients with terminal illness, to alleviate health care professional uncertainty and to ensure better pain management.*** This statement is not intended to define complete or best practice, but rather to communicate what the Boards consider to be within the boundaries of professional practice.

It is the position of the Boards that nurses, physicians, and pharmacists (hereinafter healthcare professionals) under their respective jurisdictions shall provide adequate pain control as a part of quality practice for all patients who experience pain as a result of terminal illness. Accordingly, all health care professionals who are engaged in treating terminally ill patients are obligated to become knowledgeable about effective methods of pain assessment and treatment as well as statutory requirements for prescribing, administering, and dispensing controlled substances.

This statement applies explicitly and solely to pain management at the end of life. It creates no presumption regarding appropriate or inappropriate pain management in other circumstances.

Definitions

“Adequate pain control” means pain management that reduces a patient’s moderate or severe pain to a level of mild pain or no pain at all, as reported by the patient.

“Terminal illness” means the medical condition of a patient who is dying from an incurable, irreversible disease as diagnosed by a treating physician.

Collaboration among the Healthcare Team

Communication and collaboration among members of the healthcare team and with the patient and family are essential to achieve adequate pain control in end-of-life care. Within this interdisciplinary framework for end-of-life care, effective pain management should include at a minimum:

- thorough documentation of all aspects of the patient's assessment and care;
- a working diagnosis and therapeutic treatment plan including pharmacologic and

non-pharmacologic interventions;

- regular and documented evaluation of response to the interventions and, as appropriate, revisions to the treatment plan;
- evidence of communication among care providers;
- education of the patient and family; and,
- a clear understanding by the patient, the family and healthcare team of the treatment goals.

Management of Pain

The management of pain should be based upon current knowledge and research and may include the use of both pharmacologic and non-pharmacologic modalities. Pain should be assessed and treated promptly and the quantity and frequency of pain medication doses should be adjusted according to the intensity and duration of the pain. Health care professionals should recognize that tolerance and physical dependence are normal consequences of sustained use of opioid analgesics and are not synonymous with addiction.

The Boards are obligated under the laws of the State of West Virginia to protect the public health and safety. The Boards recognize that inappropriate prescribing, administering, and dispensing of controlled substances, including opioid analgesics, may lead to drug diversion and abuse by individuals who seek them for other than legitimate medical use. Health care professionals should be diligent in preventing the diversion of drugs for illegitimate purposes. While not in any way minimizing the severity of this problem, the Boards recognize that governmental policies to prevent the misuse of controlled substances should not interfere with their appropriate use for the legitimate medical purpose of providing effective relief of pain at the end of life.

Health care professionals should not fear disciplinary action from the Boards for prescribing, administering, or dispensing controlled substances, including opioid analgesics, for a legitimate medical purpose and in the usual course of professional practice. All such prescribing must be established with clear documentation of unrelieved pain and in compliance with applicable state or federal law.

Physicians

The West Virginia Boards of Medicine and Osteopathy judge the validity of prescribing based on the physician's treatment of the patient and on available documentation, rather than on the quantity and frequency of prescribing. To facilitate communication between health care professionals, physicians should write on the prescription for a controlled substance for a terminally ill patient the diagnosis “terminal illness.” The goal is to control the patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social, and spiritual dimensions. The West Virginia Management of Intractable Pain Act sets forth the conditions under which physicians may prescribe opioids without fear of discipline. This act states “that in a case of intractable pain involving a dying patient, the physician discharges his or her professional obligation to relieve the dying patient’s intractable pain and promote the dignity and autonomy of the dying patient, even though the dosage exceeds the average dosage of a pain-relieving controlled substance” (West Virginia Code §30-3A-1 *et seq*). This entire act is attached to this statement. Because, by law, West Virginia physicians have a professional and ethical obligation to control the pain of dying patients, the West Virginia Board of Medicine regards inadequate control of pain as a possible basis for professional discipline.[2] The West Virginia Board of Osteopathy acknowledges and accepts that osteopathic physicians have the professional and ethical obligation to control the pain of dying patients.

Nurses

The nurse is often the healthcare professional most involved in the on-going pain assessment, implementation of the prescribed pain management plan, evaluation of the patient's response to pain medications, and adjustment of the amount of medication administered based on patient status. To accomplish adequate pain control, the physician's prescription must provide dosage ranges and frequency parameters within which the nurse may titrate medication to achieve adequate pain control. Consistent with the scope of professional nursing practice (Title 19, Series 10), which includes prime consideration of comfort and safety for all patients, the registered professional nurse is accountable for implementing the pain management plan utilizing his or her knowledge and documented assessment of the patient's needs. The nurse has the authority to adjust the amount of medication administered within the dosage and frequency ranges stipulated by the treating physician and according to established protocols of the healthcare institution or agency. However, the nurse does not have the authority to change the medical pain management plan. When adequate pain control is not being achieved under the currently prescribed treatment plan, the nurse is responsible for reporting such findings to the treating physician and documenting this communication. The West Virginia Management of Intractable Pain Act sets forth the conditions under which nurses may administer opioids without fear of discipline.

Pharmacists

With regard to pharmacy practice, West Virginia has no quantity restrictions on dispensing controlled substances including those in Schedule II. This fact is significant when utilizing the federal rule and state law that allow the partial filling of Schedule II prescriptions for up to 60 days for patients who are terminally ill or in a long-term care facility. In these situations it would minimize expenses and unnecessary waste of drugs if the physician would note on the prescription that the patient is terminally ill and specify partial filling may be appropriate. The pharmacist may then dispense smaller quantities of the prescription to meet the patient's needs up to the total quantity authorized. Government-approved labeling for dosage level and frequency can be useful as guidance for patient care. Health professionals may, on occasion, determine that higher levels are justified in specific cases. Federal and state rules also allow the facsimile transmittal of an original prescription for Schedule II drugs for hospice patients. As an exception to the general rule that prescriptions for Schedule II drugs must be in writing and signed by the physician, in an emergency, a pharmacist may dispense a Schedule II pain-relieving controlled substance upon an oral prescription, provided that the quantity dispensed is limited to the amount adequate to treat the patient during the emergency, and a written prescription is supplied to the pharmacy within 7 days following the oral prescription. Pharmacy rules also allow the emergency refilling of prescriptions in Schedules III, IV, and V. The West Virginia Management of Intractable Pain Act sets forth the conditions under which pharmacists may dispense opioids without fear of discipline.

Approved by:

WV Board of Examiners for Registered Professional Nurses—March 2, 2001

WV Board of Medicine—March 12, 2001

WV Board of Osteopathy—January 24, 2001

WV Board of Pharmacy—February 12, 2001

[1] West Virginia Initiative to Improve End-of-Life Care. A Report of the Values of West Virginians and Health Care Professionals' Knowledge and Attitudes. January 2000, p. 3; Steinhauser, et al. Factors considered important at the end of life by patients, families, physicians, and other care providers. JAMA 2000;284:2476-2482.

[2] American Medical Association Code of Medical Ethics. Opinions 2.20, 2.21, and 2.211

Passed by the WV Legislature, March 1998

§30-3A-1. Definitions

For the purposes of this article, the words or terms defined in this section have the meanings ascribed to them. These definitions are applicable unless a different meaning clearly appears from the context.

(1) An "accepted guideline" is a care or practice guideline for pain management developed by a nationally recognized clinical or professional association, or a specialty society or government-sponsored agency that has developed practice or care guidelines based on original research or on review of existing research and expert opinion. Guidelines established primarily for purposes of coverage, payment or reimbursement do not qualify as accepted practice or care guidelines when offered to limit treatment options otherwise covered by the provisions of this article.

(2) "Board" or "licensing board" means the West Virginia Board of Medicine, the West Virginia Board of Osteopathy, the West Virginia Board of Registered Nurses or the West Virginia Board of Pharmacy.

(3) "Intractable pain" means a state of pain having a cause that cannot be removed. Intractable pain exists if an effective relief or cure of the cause of the pain: (1) is not possible, or (2) has not been found after reasonable efforts. Intractable pain may be temporary or chronic.

(4)"Nurse" means a registered nurse licensed in the state of West Virginia pursuant to the provisions of article seven [**§** 30-7-1 et seq.] of this chapter.

(5)"Pain-relieving controlled substance" includes but is not limited to an opioid or other drug classified as a schedule II controlled substance and recognized as effective for pain relief, and excludes any drug that has no accepted medical use in the United States or lacks accepted safety for use in treatment under medical supervision, including, but not limited to, any drug classified as a schedule I controlled substance.

(6)"Pharmacist" means a registered pharmacist licensed in the state of West Virginia pursuant to the provisions of article five [**§** 30-5-1 et seq.] of this chapter.

(7)"Physician" means a physician licensed in the state of West Virginia pursuant to the provisions of article three or article fourteen [**§** 30-3-1 et seq. or 30-14-1 et seq.] of this chapter. (1998, c.230)

§30-3A-2. Limitation on disciplinary sanctions or criminal punishment related to management of intractable pain.

(a) A physician shall not be subject to disciplinary sanctions by a licensing board or criminal punishment by the state for prescribing, administering or dispensing pain-relieving controlled substances for the purpose of alleviating or controlling intractable pain when:

(1) In a case of intractable pain involving a dying patient, the physician discharges his or her professional obligation to relieve the dying patient's intractable pain and promote the dignity and autonomy of the dying patient, even though the dosage exceeds the average dosage of a pain-relieving controlled substance; or

(2) In the case of intractable pain involving a patient who is not dying, the physician discharges his or her professional obligation to relieve the patient's intractable pain, even though the dosage exceeds the average dosage of a pain-relieving controlled substance, if the physician can demonstrate by reference to an accepted guideline that his or her practice substantially complied with that accepted guideline. Evidence of substantial compliance with an accepted guideline may be rebutted only by the testimony of a clinical expert. Evidence of noncompliance with an accepted guideline is not sufficient alone to support disciplinary or criminal action.

(b) A registered nurse shall not be subject to disciplinary sanctions by a licensing board or criminal punishment by the state for administering pain-relieving controlled substances to alleviate or control intractable pain, if administered in accordance with the orders of a licensed physician.

(c) A registered pharmacist shall not be subject to disciplinary sanctions by a licensing board or criminal punishment by the state for dispensing a prescription for a pain-relieving controlled substance to alleviate or control intractable pain, if dispensed in accordance with the orders of a licensed physician.

(d) For purposes of this section, the term "disciplinary sanctions" includes both remedial and punitive sanctions imposed on a licensee by a licensing board, arising from either formal or informal proceedings.

(e) The provisions of this section shall apply to the treatment of all patients for intractable pain, regardless of the patient's prior or current chemical dependency or addiction. The board may develop and

issue policies or guidelines establishing standards and procedures for the application of this article to the care and treatment of persons who are chemically dependent or addicted.

§30-3A-3. Acts subject to discipline or prosecution.

(a) Nothing in this article shall prohibit disciplinary action or criminal prosecution of a physician for:

(1) Failing to maintain complete, accurate, and current records documenting the physical examination and medical history of the patient, the basis for the clinical diagnosis of the patient, and the treatment plan for the patient;

(2) Writing a false or fictitious prescription for a controlled substance scheduled in article two [§60A-2-201 et seq.], chapter sixty-a of this code; or

(3) Prescribing, administering, or dispensing a controlled substance in violation of the provisions of the federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. §§801, et seq. or chapter sixty-a of this code; or

(4) Diverting controlled substances prescribed for a patient to the physician's own personal use.

(b) Nothing in this article shall prohibit disciplinary action or criminal prosecution of a nurse or pharmacist for:

(1) Administering or dispensing a controlled substance in violation of the provisions of the federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. §§801, et seq. or chapter sixty-a of this code; or

(2) Diverting controlled substances prescribed for a patient to the nurse's or pharmacist's own personal use. (1998, c.230)

§30-3A-4. Construction of article.

This article may not be construed to legalize, condone, authorize or approve mercy killing or assisted suicide. (1998, c. 230)

Physician Assistant Licensure Renewal Update

On March 30, 2001, eight physician assistants were notified that their licenses were suspended for failure to notify the Board that required continuing medical education had been obtained. The suspensions could have been avoided if the renewal forms had been submitted on time!

OUR WEBSITE IS UNDER CONSTRUCTION AND IMPROVEMENT
WATCH FOR UPDATES, CHANGES, AND ADDITIONS
WWW.WVDHHR.ORG/WVBOM

WV Board of Medicine

101 Dee Drive
Charleston, WV 25311
Phone: 304-558-2921
Fax: 304-558-2084

MEETINGS OF THE
WEST VIRGINIA
BOARD OF MEDICINE
2001

May 14
July 9
September 10
November 5
All meetings begin at 9:00 am

Ext #	Staff of the West Virginia Board of Medicine (304) 558-2921	
227	**Ronald D. Walton, M.A.**	Executive Director
214	**Deborah Lewis Rodecker, J.D.**	Counsel
216	**G. Wayne Van Bibber, J.D.**	Prosecutor
212	**M. Ellen Briggs**	Administrative Secretary to the Executive Director
220	**Becky Burgess**	Fiscal Officer
222	**Leslie A. Higginbotham**	Paralegal and Investigator
215	**Lynn Hill**	Information Systems Coordinator
210	**Charlotte A. Jewell**	Receptionist/Physician Assistant Coordinator
213	**Sherry M. Kelly**	Complaints Coordinator
221	**Crystal Lowe**	Licensure Analyst
211	**Janie Pote**	Administrative Secretary to Legal Department
224	**Tracy Ransom**	Verification Clerk

NEWSLETTER VIA E-MAIL REQUEST FORM

☐ Yes, I would like to receive my newsletter via e-mail instead of U.S. mail
(*Please check the box*)

Name of Licensee: _____ **WV License No:** _____

E-mail Address: _____ **(i.e.**

user@domain.com)

Signature: _____ Date: _____
Original Signature of Licensee is Required

CHANGE OF ADDRESS FORM

WV License No: _____ **Date of Change:** _____

Name of Licensee: _____

PLEASE CHECK ONLY ONE PREFERRED MAILING ADDRESS:
(The preferred mailing address is the licensee's address of record, which is public information.)
(Note that telephone numbers are not considered public information.)

( ) Principal Office or Work Location *ONLY CHECK ONE* ( ) Home Address

_____ _____

_____ _____

_____ _____

Telephone: _____ **Telephone:** _____

Signature: _____ Date: _____
Original Signature of Licensee is Required

***Mail completed form(s) to*:** **West Virginia Board of Medicine**
101 Dee Drive · Charleston, WV 25311
Fax copies not accepted.
By law, you must keep this office apprised of any and all address changes